

The Summary of Israel Anti-Boycott Act

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Israel Anti-Boycott Act [H.R.1697, 115th Congress (2017-2018)] was introduced by Sen. Benjamin Cardin (D-MD) and Sen. Rob Portman (R-OH) in the Senate and Sen. Juan Vargas (D-CA) and Sen. Peter Roskam (R-IL) in the House. The bipartisan bill is drafted to combat *Boycott, Divestment, and Sanctions (BDS)* movement against the Jewish state (**with the support of 290 cosponsors**). Earlier in June 2018, The House Foreign Affairs Committee approved the bill.

It is a response to a decision from the United Nations Human Rights Council to "*blacklist*" companies operating in the Palestinian territories, defined by that body as all territory beyond the **pre- 1967-War Green Line**. Do note, the published report included only the number of companies from each country, rather than naming them. Out of 206 companies, 143 of them are based out of Israel, 22 from the US and remainders are from 19 other countries. But, only 64 of them had been contacted for doing business in Israeli settlements.

According to **S.720 [Sponsored by Sen. Benjamin Cardin (D-MD)]**, it will amend the **Export Administration Act of 1979** to declare that it shall be U.S. policy to oppose:

requests by foreign countries to impose restrictive practices or boycotts against other countries friendly to the United States or against U.S. persons; and

restrictive trade practices or boycotts fostered or imposed by an international governmental organization, or requests to impose such practices or boycotts, against Israel.

The bill prohibits any U.S. person engaged interstate or foreign commerce from supporting: any request by a foreign country to impose any boycott against a country that is friendly to the United States and that is not itself the object of any form of boycott pursuant to United States law or regulation, or

any boycott fostered or imposed by any international governmental organization against Israel or any request by any international governmental organization to impose such a boycott.

The bill amends the **Export-Import Bank Act of 1945** to include as a reason for the Export-Import Bank to deny credit applications for the export of goods and services between the United States and foreign countries, opposition to policies and actions that are politically motivated and are intended to penalize or otherwise limit commercial relations specifically with citizens or residents of Israel, entities organized under the laws of Israel, or the government of Israel.

In response to S.720, on December 19, 2018, Sen. Bernie Sanders (I-VT) and Sen. Dianne Feinstein (D-CA) **wrote in a letter** to Republican Leader Mitch McConnell (R-KY) and Democratic Leader Chuck Schumer (D-NY), *"We believe including this bill would violate the spirit of cooperation and commitment that Senate appropriators have made to oppose controversial riders on appropriations bills."* The senators continued, *"As the **ACLU has repeatedly stated in its opposition to S. 720**, this bill would violate Americans' First Amendment rights. Federal district courts in Kansas and Arizona have similarly considered state laws that target political boycotts of Israel and found them to violate the First Amendment... At a time when the Netanyahu government is pursuing policies clearly aimed at foreclosing the two-state solution, it is deeply disappointing that Congress would consider choosing to penalize criticism of those policies."*

However, according to the American Israel Public Affairs Committee (AIPAC), *"Nothing in the Israel-Anti-Boycott Act restricts constitutionally-protected free speech. The bill only regulates commercial conduct intended to comply with, further or support unauthorized foreign boycotts."*

American courts have routinely upheld federal laws restricting commerce that conflicts with U.S. foreign policy interests as not violating free speech. Accordingly, under the proposed legislation, companies and individuals would be barred from refusing to conduct business with Israel in order to satisfy a request from the United Nations or the European Union. However, they would remain entirely free to boycott Israel on their own volition." A **complete summary**, giving out the necessary clarifications in support of the bill was published by AIPAC in October 2018.
